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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-third session

SUMMARY RECORD OF THE 18th MEETING*

Held at the Palais des Nations, Geneva,
on Monday, 19 August 1991, at 10 a.m.

Chairmen: Mr. JOINET
Mr. SHAHI

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Closure of the joint meeting

The meeting was called to order at 10.15 a.m.

1. Mr. Joinet (Chairman) took the Chair.

OPENING OF THE JOINT MEETING

2. The CHAIRMAN, in conformity with resolution 1990/1 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, declared open the joint meeting of the Sub-Commission and the Committee on the Elimination of Racial Discrimination. On behalf of the Sub-Commission, he welcomed the members of the Committee and the Under-Secretary-General for Human Rights, Mr. Martenson, whom he invited to make a few introductory remarks.

PRELIMINARY REMARKS BY THE UNDER-SECRETARY-GENERAL FOR HUMAN RIGHTS

3. Mr. MARTENSON (Under-Secretary-General for Human Rights) congratulated the members of the Sub-Commission and the Committee on having organized the joint meeting, which would undoubtedly constitute an important step in the campaign against racism and racial discrimination through the exchange of experience, preoccupations and points of view.

4. Racial discrimination was one of the oldest and most difficult challenges to the international community. Moreover, new and deeply disturbing manifestations of discrimination were emerging which were a serious threat to international peace and security. Thus a key element in future activities would be a better understanding of the basic causes of racial discrimination and increased knowledge of successful measures used against it.

5. The Sub-Commission and the Committee on the Elimination of Racial Discrimination were the two principal organs of the United Nations in its campaign against racial discrimination. Each had its own specific mandate and methods of work, each saw the various problems from a different angle and each made a unique contribution to the elimination of racial discrimination. The purpose of the meeting was to enable them to exchange the knowledge and experience they had accumulated in carrying out their respective tasks.

6. The current meeting of two expert bodies was part of a general evolution towards closer cooperation of the expert human rights bodies among themselves and with other sectors of the United Nations. Such closer cooperation was necessary if they were effectively to reach their common goals.

7. The treaty-based bodies had taken some initiatives in that area. In particular, they had appointed members to follow and report on other committees and suggested a joint meeting on the rights of the child. The periodic meetings of chairpersons of treaty-based bodies was important in that regard.

8. For its part, the Centre for Human Rights had also made contributions to a wider understanding of problems dealt with by the committees.

9. In connection with the preparations for the Committee on the Rights of the Child, two consultations had been convened, one with the specialized agencies and United Nations bodies, including the Special Rapporteur on the

Sale of Children and the Chairperson of the Working Group on Contemporary Forms of Slavery, and one with the non-governmental organizations. In addition, with the support of UNICEF, the Centre had organized an informal meeting of the newly-elected Committee members, with the participation of a member of the Human Rights Committee and a member of the Committee on Economic, Social and Cultural Rights and representatives of specialized agencies. Those meetings had proved extremely useful in defining the task to be taken up by the Committee on the Rights of the Child.

10. He was certain that the joint meeting represented an important new form of contact which would strengthen the campaign against racism and racial discrimination.

PRESENTATION BY THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

11. The CHAIRMAN, speaking as Chairman of the Sub-Commission, recalled that the Sub-Commission was a subsidiary organ of the Commission on Human Rights, established under Economic and Social Council resolution 9 (II) of 21 June 1946.

12. The Sub-Commission's mandate was to undertake studies and to make recommendations to the Commission on Human Rights concerning the prevention of discrimination of any kind relating to human rights and fundamental freedoms and the protection of racial, national, religious and linguistic minorities. It was also responsible for performing any other functions which might be entrusted to it by the Economic and Social Council or the Commission on Human Rights.

13. It was made up of 26 members and 26 alternates elected by the Commission on Human Rights for a four-year term, according to an equitable geographic distribution. The experts served in their personal capacities, and their independence was assured by a number of guarantees, including the quite recent possibility of voting by secret ballot on the human rights situation in a particular country.

14. The work was conducted by a five-member bureau (one chairman, three vice-chairmen and one rapporteur) elected at each session by geographical rotation at the rate of one member per region.

15. In addition to the 26 experts (or their alternates), government observers (82 registered in 1990) and non-governmental (NGO) observers (92 registered in 1991) also participated in the work, with the right to speak.

16. Regarding the discussions, the NGOs usually spoke first, on each agenda item, subject to flexibility in the conduct of the work, thus enabling the government observers to take the floor with better information or even to exercise their right of reply. The members of the Sub-Commission had priority over all observers and could ask to be entered on the speakers' list at any time. The speaking time allowed to members of the Sub-Commission, government observers and non-governmental observers was regulated quite precisely.

17. In conclusion, he asked the members of the Sub-Commission and the Committee who wished to take the floor to enter their names on two separate lists so that the floor might alternate between a member of the Committee and a member of the Sub-Commission. Given the large number of participants, he also asked the speakers to limit their time to three minutes, if possible.

PRESENTATION BY THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

18. Mr. SHAHI (Chairman, Committee on the Elimination of Racial Discrimination) said that he had great pleasure in presiding, together with Mr. Joinet, over the first joint meeting of the two United Nations bodies dedicated to combating all forms of racism and racial discrimination. The meeting was an important first step towards better cooperation between the two bodies; it was to the Sub-Commission's credit that it had taken the initiative in proposing the meeting.

19. He welcomed the presence of the observers from the non-governmental organizations, which were valuable sources of information, and regretted that it had not proved possible to allow them to take part in the discussions at the current meeting.

20. The mandate and functions of the Committee on the Elimination of Racial Discrimination were set forth in Fact Sheet No. 12, published by the Centre for Human Rights. In addition, a progress report covering the Committee's first 20 years was currently being printed. It contained an overview of the positive results achieved and difficulties encountered in the implementation of the Convention.

21. The States parties to the Convention pledged themselves to eliminate racial discrimination, not to engage in discriminatory acts against persons, groups of persons or institutions, not to sponsor, defend or support racial discrimination by any persons or organizations and to bring their policies and laws into conformity with that pledge (art. 2 of the Convention). They also pledged themselves to adopt measures, including legislation, to punish, inter alia, incitement to racial discrimination and acts of violence, to guarantee equality of persons before the law irrespective of their race, colour, national or ethnic origin and to assure protection and remedies against acts of racial discrimination. The States parties were also to take action in the fields of education, teaching, culture and information to combat prejudice and to promote understanding, tolerance and friendship.

22. The Committee, which consisted of 18 experts elected by the States parties, monitored States' implementation of those measures by considering the reports the States had undertaken to submit every two years on the legislative, judicial, administrative or other measures they had adopted to give effect to the provisions of the Convention (art. 9 (1)).

23. The Committee found itself confronted with a number of difficulties in carrying out its task. Many States submitted their reports late or did not follow the Committee's guidelines concerning the form and content of those reports. In many cases, the information provided, particularly demographic data, was insufficient. Many States had not yet enacted laws prohibiting acts

of racial discrimination and racist propaganda. It was rare for the victims of racial discrimination to obtain redress through recourse procedures.

24. States parties did not always take the special measures provided for in article 2 (2) of the Convention to ensure the adequate development and protection of certain racial groups, indigenous peoples, minorities and other disadvantaged groups.

25. So far, 14 States had recognized the competence of the Committee to consider communications by individuals within their jurisdiction claiming to be victims of a violation by those States parties of any of the rights set forth in the Convention.

26. He welcomed South Africa's progressive dismantling of apartheid, against which the Committee had maintained an uncompromising stand.

27. With a view to exercising moral suasion on States parties whose periodic reports had become long overdue, the Committee had, in 1991, decided to review the last reports submitted by those States and to comment on subsequent developments.

28. The Convention, ratified by 129 States, was the most widely accepted human rights instrument. However, the delay in payment of contributions by a number of States parties had seriously weakened the functioning of the Committee in recent years. If the effective functioning of the Committee was to be assured, the system of funding meetings from voluntary contributions would have to be reviewed.

IDENTIFICATION OF ISSUES OF COMMON INTEREST - HOW TO ENSURE COORDINATION, NOTABLY FOR THE EXCHANGE OF INFORMATION ON THE FIGHT AGAINST RACIAL DISCRIMINATION AND, POSSIBLY, TO CONSIDER A COMMON CONTRIBUTION TO THE PREPARATIONS FOR THE WORLD CONFERENCE ON HUMAN RIGHTS, INCLUDING THE ESTABLISHMENT OF A JOINT WORKING GROUP

29. Mr. SHAHI (Chairman of the Committee) said that cooperation between the Sub-Commission and the Committee should be developed, despite the fact that the two bodies had different mandates. The Sub-Commission was a standard-setting body, while the Committee was primarily a treaty implementation mechanism. Mr. Alston rightfully stated in paragraph 9 of his report (A/44/668) that, "while each treaty regime must be considered on its own merits and in the light of its own specific norms and procedures, for some purposes the various regimes cannot realistically be viewed in isolation either from one another or from the broader human rights programme of which they are but a part". The chairpersons of the treaty bodies had expressed a similar point of view at their second meeting.

30. The Committee was directly interested in several of the activities undertaken by the Commission and the Sub-Commission, in particular the drafting of declarations on the rights of persons belonging to national, ethnic and religious minorities and on the rights of indigenous populations, and Mr. Joinet's and Mr. Turk's revised study on the right to freedom of information and opinion. That study seemed to run parallel to the one prepared by a Committee member, Mr. Wolfrum, on the prohibition of racial

discrimination versus freedom of expression and association. If normative consistency was to be maintained, those three authors should consult one another.

31. The van Boven report on the right to restitution, compensation and rehabilitation for victims of gross violations of human rights was of direct relevance to article 6 of the Convention. Furthermore, the findings of the special rapporteurs appointed by the Commission on Human Rights to inquire into human rights violations in a number of countries might usefully be consulted by Committee members when they were considering the periodic reports of the States in question. The Committee would also welcome the information to be obtained from the "Global Survey on the extent of dissemination of the Convention on the Elimination of All Forms of Racial Discrimination", which the Commission had chosen as its thematic study for 1993.

32. In connection with the proclamation of the Third Decade to Combat Racism and Racial Discrimination, the Sub-Commission would be considering at its current session an overview prepared by the Secretary-General of new trends of racism, discrimination, intolerance and xenophobia affecting ethnic, national, religious and linguistic minorities, refugees, migrant workers and other vulnerable groups. That study was of great interest to the Committee, which was also planning a contribution to the Third Decade by preparing, at the initiative of one of its members, Mr. Banton, studies on a number of articles of the Convention, in particular article 2, paragraph 2, which called for the States parties to take special and concrete measures in the social, economic, cultural and other fields to ensure the adequate development and protection of certain racial groups or individuals belonging to them for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms.

33. The Committee was also planning a contribution to the World Conference on Human Rights dealing with ways of improving implementation of human rights treaty provisions.

34. At its thirty-ninth session, in March 1991, the Committee had designated a Vice-Chairman of its Bureau, Mr. Ferrero Costa, to maintain liaison with the Sub-Commission and to apprise the Committee of the Sub-Commission's work on a regular basis. The Committee would welcome the nomination of one of the members of the Sub-Commission to communicate with Mr. Ferrero Costa for the purpose of strengthening coordination between the two bodies.

35. The CHAIRMAN reminded the members of the Sub-Commission and of the Committee on the Elimination of Racial Discrimination that the discussion should not deal with matters of substance but should identify subjects of interest to both bodies.

36. Mrs. WARZAZI (Sub-Commission) thanked Mr. Shahi for his statement on behalf of the Committee on the Elimination of Racial Discrimination and welcomed the fact that, since 1975, when she had left the Committee, on which she had served for five years, that body had considerably enlarged the scope of its activities.

37. She hoped that, in the future, Sub-Commission studies would be systematically made available to the members of the Committee and that the two bodies would delve further into the question of compatibility between the provisions of article 4 of the Convention and the right to freedom of expression as defined in the International Covenant on Civil and Political Rights.

38. Referring to the items in the agenda of the Sub-Commission implicitly or explicitly related to the Committee's mandate, she noted that items 13 (Elimination of all forms of intolerance and of discrimination based on religion or belief), 19 (The right of everyone to leave any country, including his own, and to return to his ountry) and 7 (a) (The role and equal participation of women in development) did not really concern the Committee, unless, of course, the rights in question were violated for reasons based on race.

39. Mr. RIVAS POSADA (Sub-Commission) said he agreed with Mrs. Warzazi that the Sub-Commission and the Committee should concentrate on a more limited number of items initially. He proposed that the two bodies should consider only items 5 (Elimination of racial discrimination), 6 (Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories ...), 15 (Discrimination against indigenous peoples) and 18 (Protection of minorities). The other items might be examined at a later stage.

40. He proposed, as Mr. Shahi had suggested, that the Sub-Commission should nominate one of its experts to ensure liaison with the Committee, and hoped that the meeting would be the first stage in a fruitful collaboration between the two bodies.

41. Mr. SHAHI (Chairman) took the Chair.

42. Mr. FERRERO COSTA (Vice-Chairman of the Committee) said he welcomed the opportunity for the members of the Sub-Commission and the Committee to have an initial contact which would undoubtedly lead to a fruitful collaboration.

43. Each of the bodies was composed of independent experts responsible for defending and promoting human rights, and both, the Committee exclusively and the Sub-Commission among other tasks, had the mandate of combating racial discrimination.

44. An indispensable first stage would be to develop the exchange of information and studies of common interest. For example, the summary records of the Committee's discussions, and its final conclusions when it had considered the reports of the States parties, might be distributed to the members of the Sub-Commission.

45. Greater use should also be made of the information provided by the non-governmental organizations, which played a very important role in the defence of human rights.

46. In conclusion, he proposed that the Sub-Commission document on measures to combat racism and racial discrimination should be used as the starting point for the discussion.

47. Mr. YUTZIS (Committee) said that the joint meeting opened many opportunities for collaboration between the two bodies, in both the practical and theoretical spheres.

48. Among the items on the Sub-Commission's agenda being brought to the attention of the joint meeting, he noted that item 4 was applicable inasmuch as it concerned the right to freedom of opinion and of expression. That subject should be taken in conjunction with the provisions of article 4 of the Convention on the Elimination of All Forms of Racial Discrimination concerning the steps which States might take to combat the dissemination of ideas based on racial hatred. There might be a contradiction there which would give the experts some food for thought.

49. Items 5 and 7 of the Sub-Commission's agenda related to the Committee's work, the first directly and the second more indirectly. Regarding agenda item 18 (Protection of minorities), the outburst of nationalism currently occurring in many modern States was often based on significant religious grounds and gave reason to think that forms of harmonious coexistence between States and their minorities other than those currently existing should be envisaged.

50. Mr. DESPOUY (Sub-Commission) said he welcomed the first meeting between the Sub-Commission and the Committee. He also wished to express his concern at the latest international events, in particular the dismissal of President Gorbachev, which boded ill for the future of human rights and peace throughout the world.

51. With regard to the implementation of article 4 of the Convention by States, he noted the special situation of disabled people and said that States' judicial systems were loathe to grant special remedies to that vulnerable group of the population. He wondered if the Committee had any experience in that area.

52. Regarding the provisions of article 14 of the Convention relating to communications by individuals, he felt that its wording was imprecise, for it might lead States to establish national bodies for receiving petitions from individuals.

53. In connection with the functioning of bodies established under international human rights instruments, he would also like to mention the achievements of the Human Rights Committee and the Committee on the Elimination of Discrimination against Women. In that connection, he welcomed the Committee's decision to invite the NGOs to take part in its work.

54. Concerning cooperation between the two bodies, he recalled that the Sub-Commission had adopted resolutions relating to the holding of Committee sessions. For lack of resources, the Committee had had to cancel certain of

its sessions, which had led the Sub-Commission to request the Economic and Social Council and superior bodies to provide the financing required for the continuation of the Committee's work.

55. In conclusion, he endorsed the proposals made by other experts from Latin America and proposed that a permanent consultative mechanism should be established for the proposals to be submitted to the World Conference on Human Rights.

56. Mr. EIDE (Sub-Commission) said that, at the time the Convention on the Elimination of All Forms of Racial Discrimination had been drafted, its main framework had been the Sub-Commission. There were indeed numerous points of interest common to the Sub-Commission and the Committee.

57. Analysing the concept of racism and its manifestations in different regions of the world was of interest to both the Sub-Commission and the Committee. In that connection, he welcomed Mr. Banton's elaboration of a document relating to the contribution to the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination.

58. He also noted with great interest Mr. Wolfrum's study on the prevention of racial discrimination and its relationship to freedom of expression and freedom of association. Speaking generally, he wondered whether, given the indivisibility of human rights and the conflicts that might arise between different rights, that question could be dealt with effectively by different committees. For example the Human Rights Committee might well interpret and apply articles 19, 20, 21 and 22 of the International Covenant on Civil and Political Rights in a way that was incompatible with the interpretation by the Committee on the Elimination of Racial Discrimination of article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination. He wondered whether the two bodies communicated with each other on that question and whether Sub-Commission studies, such as the one carried out by Mr. Joinet and Mr. Türk, could help to define the relationship between those different rights. In view of the preparations for the future World Conference, thought might, perhaps, be given to preparing an entirely different implementation mechanism (a standing "super-committee", for example) which would deal with the entire range of human rights, rather than the committees dealing with human rights continuing to proliferate as they had been doing for the past 30 years.

59. Finally, with regard to the question of minorities, he was pleased to hear that the Committee intended to devote a special study to the implementation of article 2, paragraph 2, of the Convention.

60. Mr. LECHUGA HEVIA (Committee) said that the joint meeting gave two United Nations bodies the opportunity for collaboration that might lead to better integration, particularly of information, between the various United Nations bodies.

61. The list of items prepared by the Sub-Commission was a very ambitious one and would be more effective if shortened. In his view, it should be limited to items 6 (Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of

apartheid, in all countries, with particlar reference to colonial and other dependent countries and territories) and 7 (The new international economic order and the promotion of human rights).

62. As the Under-Secretary-General for Human Rights had rightly pointed out, the causes of racial discrimination had to be identified if it were to be combated more effectively. The economic crisis was, perhaps, the source of the mass migrations which were occurring, especially towards the developed countries, and which were bringing about a resurgence of discrimination, racism and even neo-fascism in Europe and other regions. It was thus necessary to determine the economic causes of a discrimination that was growing worse in all countries, particularly in Europe. In that connection, it would be helpful to establish a mechanism for collaboration among the various competent bodies and to request participation by other United Nations bodies with competence in the economic field, such as the regional commissions, the United Nations Conference on Trade and Development and the Economic and Social Council, in order to provide a statistical base and up-to-date information in that field.

63. Regarding mechanisms for studying means of collaboration between the two bodies, he would be in favour of the Sub-Commission's appointing a coordinator, who would be Mr. Ferrero Costa's counterpart, as it were.

64. Mr. GUISSE (Sub-Commission) said that the list of items distributed was indicative rather than imperative.

65. Human rights violations currently had a racial aspect in many countries. Thus, racial discrimination merged into the totality of the violations of individual rights in South Africa.

66. As for cooperation between the Sub-Commission and the Committee, it was being considered on an experimental basis. The first stage would be completed by the date of the World Conference on Human Rights. If the experiment produced results, it should continue until the end of the Decade to Combat Racism and Racial Discrimination, and then until racism as a source of human rights violations was eliminated.

67. Mr. RHENAN SEGURA (Committee) congratulated the Sub-Commission on taking the initiative of organizing the joint meeting. That experience should be repeated, and exchanges among the various bodies should be increased, the more so as there was unjustified criticism of the work of the Sub-Commission and other United Nations bodies for the protection of human rights. As a current member of the Committee and an alternate member of the Sub-Commission for the period 1988-1989, he had often been concerned at the duplication of work among the Committee, the Commission and the Sub-Commission. The Sub-Commission and the Committee should join their efforts to support the various minorities struggling to vindicate their rights, and to eliminate the racism that prevailed in politics and everyday life. The Committee's experts should also be able to collaborate in the studies conducted by the Sub-Commission, in particular the work on items 5 and 6 of its agenda.

68. Mrs. DAES (Sub-Commission) said the joint meeting, whose utility was obvious, should help the two bodies to coordinate their work more effectively,

in order to avoid duplication and ensure that the resolutions and studies of one body were not in contradiction with those of the other. Among the items with potential for cooperation, particular mention should be made of discrimination against indigenous peoples (item 15 of the Sub-Commission's agenda), with which she had been concerned. The Sub-Commission and its Working Group on Indigenous Populations would be able to make use of the information received by the Committee in that field, as well as its conclusions and recommendations, to good effect. As for the future, cooperation between the two bodies should be maintained in preparation for the World Conference on Human Rights and, subsequently, the Third Decade.

69. Mr. SHERIFIS (Committee), having thanked the Sub-Commission for its initiative in planning a meeting between the two bodies, noted that the Committee, whose work was based on the International Convention on the Elimination of All Forms of Racial Discrimination, had a more limited scope of activity than the Sub-Commission. Some of the subjects it dealt with had already been handled by the Sub-Commission; it could therfore take advantage of the latter's work. Thus, when a report by a State party was being considered, it would be useful for the Committee to be informed of any Sub-Commission decisions concerning that State. In other cases, the Committee could supply the Sub-Commission with information. What was important was that there should be an exchange of studies and information on subjects of common interest. To that end, the two bodies should provide each other with a list of items they were considering, indicating what stage had been reached. The participants in the current meeting had before them, in a document without a symbol, a list of items on the Sub-Commission's agenda which were connected with the Committee's mandate. In his view, that list was rather an ambitious one, and he thought that it would be better to strengthen cooperation, at the first stage, on a limited number of items. He was thinking in particular of item 5 (Elimination of racial discrimination), item 6 (Question of the violation of human rights and fundamental freedoms ...) and item 15 (Discrimination against indigenous peoples). Finally, he hoped that the Sub-Commission and the Committee would be able to combine their experience and wisdom in order to help resolve the conflicts throughout the world that fell within their mandates.

70. Mr. van BOVEN (Sub-Commission) said that the two bodies complemented each other. The Committee worked on the basis of its dialogue with Governments; the Sub-Commission was also informed by Governments, which attended its sessions as observers. The Sub-Commission had the advantage of receiving much information from non-governmental organizations, as Mr. Shahi had already said. As for the items concerning which the two bodies could cooperate, he believed that they were numerous and that practically the entire Commission agenda would lend itself to such cooperation. Mr. Shahi had already mentioned an item which he himself was dealing with: the elimination of religious intolerance. He recalled that, when, in 1962, the General Assembly, had originally discussed the International Convention on the Elimination of All Forms of Racial Discrimination, it had also envisaged a parallel convention on religious intolerance. The two aspects were often interconnected, as in anti-Semitism. He would like to see special cooperation between the two bodies in the future on a study of new trends in racism and xenophobia, and more generally an improvement in the exchange of information and documentation, which currently revealed some serious gaps.

71. Mr. de GOUTTES (Committee) said that the joint meeting was an important and welcome initiative. To ensure sound cooperation between the two bodies, it should be repeated regularly. Since many items had already been mentioned by members of the Committee, he would limit himself to one specific item. He had personally proposed to the Committee that national human rights commissions should take part in the drafting of reports by the State parties and even be members of the delegations sent by those States for the consideration of their reports. Such national commissions had direct experience of the campaign against racial discrimination and were in close contact with NGOs, trade-union movements, religious groups, etc., which were working directly in sensitive neighbourhoods and areas. That approach would make it possible to obtain precious information. A meeting of national commissions was planned for October under the auspices of the Centre for Human Rights. The Sub-Commission and the Committee should cooperate to develop and further that type of contact.

72. Mrs. KSENTINI (Sub-Commission), having thanked the sponsors of the initiative that had led to the current meeting, which represented a step towards closer cooperation between the two bodies, said that the list of items of the Sub-Commission's agenda related to the mandate of the Committee provided many possible areas of cooperation but was not exhaustive. It might be thought that all human rights were affected by racial discrimination and therefore justified cooperation between the two bodies. In particular, item 10 of the Sub-Commission's agenda, concerning the administration of justice, might be added to the proposed list; racism effectively prevented access to a fair judicial hearing. The two bodies could also cooperate with regard to detention, extreme poverty, etc. In fact, rather than agenda items, it would be better to select subjects concerning which mutual information and cooperation were desirable. She recalled that the Committee was empowered to receive complaints from individuals and States; it also had the experience of considering reports by States parties, which often dealt with some very specific questions. The Sub-Commission should draw upon the Committee's experience, especially regarding problems encountered in considering reports and the current trends that were reflected in them. As everyone knew, the Committee examined countries' legislation to verify whether it provided protection against racial discrimination and provided victims with the means to defend themselves. The Sub-Commission might also make good use of the Committee's general observations. Conversely, as had already been stressed, the copious information received by the Sub-Commission from NGOs would be very useful to the Committee. For all those reasons, she hoped that a consultation mechanism would be set up between the two bodies, especially with a view to the forthcoming World Conference on Human Rights.

73. Mr. ABOUL-NASR (Committee) recalled that Mr. Yutzis, a member of the Committee, had been the first, two years previously, to launch the idea of a joint meeting with the Sub-Commission. At that time, he had not himself been very enthusiastic, but he had come to recognize that the idea had been an excellent one and had led to a very useful discussion. The Committee had developed considerably since its early days: dialogue with the States parties had been strengthened and had contributed to a better understanding with those States and a better implementation of the Convention in the territories under their jurisdiction. It should be remembered that the Committee's sources of information were the country reports submitted to it under article 9 of the

Convention, complaints by States under article 11, complaints by individuals under article 14 and reports and petitions concerning the administration of the Non-Self-Governing Territories, as provided for in article 15.

74. In 1991, the Committee had decided to broaden its information sources further, by including non-governmental organizations and the press; information from those sources had not been accepted formerly, and points of order had been raised whenever they were brought up. Since the Sub-Commission had more information sources then the Committee, means should be sought to enable the Committee to make use of them.

75. Regarding potential joint actions between the two bodies, he agreed with Mr. van Boven that a realistic attitude was necessary. The members of the two bodies, after getting to know each other, should initially collaborate on a few specific items; in that connection, he proposed the penalization of acts of racial discrimination in accordance with article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination. The Committee had made some progress in that area, but under difficult conditions, for it had had to convince States to make those acts offences by changing their national legislation (some States went so far as to say that there was no racial discrimination in their territories). He also noted that, although article 11 of the Convention enabled a State to charge that another State was violating the provisions of the Convention, and provided a procedure for that purpose, no State had made such a complaint to date. Some filed complaints before the General Assembly or the Commission on Human Rights, but not before the Committee; there were several reasons for that, which he could hardly go into at the current meeting. Article 14 of the Convention enabled the Committee to receive communications from individuals if the States parties made an optional declaration recognizing its competence in that regard; however, there had been very few communications to date. The Committee did not know whether a given State party informed its citizens of that right when it made its declaration under article 14.

76. Concerning studies, he recalled the difference between the two bodies: while the Sub-Commission's studies were financed by the United Nations, the Committee's studies were prepared by its members without any financing. Regarding duplication of work, it was a well-known fact that there were some 10 or so committees dealing with racial discrimination within the United Nations; there was thus an obvious need to avoid overlapping of their work.

77. Mrs. BAUTISTA (Sub-Commission) thanked the Chairmen of the Committee and the Sub-Commission for rendering possible the current historic meeting, thanks to which the experts had been informed of the potential for collaboration between the two bodies to improve the lot of minorities in many regions of the world and of the measures that might be adopted to end ethnic conflicts. The reports prepared by some members of the Sub-Commission, especially Mrs. Daes, Mr. Eide, Mr. van Boven, Mrs. Warzazi, Mrs. Ksentini and Mrs. Attah, on the problem of minorities might be very useful to the Committee which, it seemed, received only the information contained in the reports submitted to it by the States parties. However, she felt that, for the time being, the information exchange between the two bodies should be aimed solely at determining the main causes of conflicts between Governments and minorities and considering the

possibility of making a joint recommendation at the World Conference on Human Rights urging States to take measures to resolve conflicts arising from discrimination against minorities. She proposed that a mechanism should be set up for preparing such a joint recommendation.

78. Mr. WOLFRUM (Committee) welcomed the holding of the joint meeting and said that both bodies could benefit from each other's work. The list of items of mutual interest was not exhaustive. and should, in his view, also include judicial and administrative protection against racial discrimination. He also believed that both bodies should make every effort to strengthen the implementation of the international human rights instruments, not only regarding States parties' obligation to submit reports, but also at the level of the individual's right to file complaints against his Government and that of States to denounce other States that did not implement the provisions of the Convention. In that connection, he found it surprising that articles 11 and 14 of the Convention were not invoked more often. Developments in racial discrimination was another subject of mutual interest. In that connection, thanks to the reports submitted to it by Governments, the Committee had reliable information on the situation in the States parties. That having been said, he agreed with Mr. Aboul-Nasr that, for the time being, the two bodies should limit themselves to exchanging information in certain fields.

79. Mr. SABOIA (Sub-Commission) said he welcomed the convening of the joint meeting and thanked the Chairmen of the Committee and the Sub-Commission, as well as Mr. Martenson, for their efforts to make it possible. Although they had different legal bases and mandates, the Committee and the Sub-Commission had many areas of common interest. He believed that the current meeting was part of a trend to promote the consideration of the work of the human rights treaty and statutory bodies. The purpose of such consideration should be to simplify the work and procedures of those organs and make them more efficient, to reduce the workload on States and organizations arising from their obligation to submit reports, and to avoid overlapping of activities. In that connection, he found very interesting Mr. Eide's idea of establishing a "super-committee" to monitor the implementation of the various human rights instruments, at least of the universal instruments such as the International Convention on the Elimination of All Forms of Racial Discrimination.

80. Concerning the list of items of common interest on the Sub-Commission's agenda, he was of the opinion that it should be selective and not exhaustive, so as to avoid any work overload. The most important items, in his view, were item 5 (a), concerning which the Sub-Commission needed greater knowledge of the new forms of racial discrimination, especially with regard to refugees, asylum-seekers and migrant workers, and items 5 (b) and 15. As for the coordination of activities, he proposed that, initially, contacts between the bureaux of the two bodies should be increased. To promote information exchange, he suggested that the Secretariat should draw up an annual list of documents of common interest.

81. Mr. ALFONSO MARTINEZ (Sub-Commission) said he acknowledged the importance of the current joint meeting. In his opinion, items 5, 6, 15 and 18 of the Sub-Commission's agenda lent themselves to cooperation between the two bodies. Regarding item 15, the Committee might communicate to the Sub-Commission the up-to-date information it had on specific subjects and take advantage of the

information received by the Sub-Commission from non-governmental organizations. He would like to make it clear that cooperation between the two bodies would not necessarily lead to joint action. He had four areas of cooperation in mind: identification of emerging trends in the field of racial discrimination, coordination of activities in preparation for the forthcoming Decade to Combat Racism and Racial Discrimination, periodic exchange of information on the work of the two bodies the institutionalization of such exchanges and a stepping-up of joint activities. In conclusion, he proposed that a common mechanism should be set up, involving members of both bodies, to examine potential cooperation activities.

82. Mr. ILKAHANAF (Sub-Commission), said that, while he welcomed the fact that the Sub-Commission and the Committee had decided to consider items of mutual interest, the number of areas in which the two bodies could exchange viewpoints and information was limited. In his view, items 4, 5, 6, 7 and 15 of the Sub-Commission's agenda were ones on which the two bodies could cooperate and complement each other to avoid any overlapping of their activities.

83. Mr. CHERNICHENKO (Sub-Commission) welcomed the fact that the joint meeting was being held. He thought it important to have a common approach to the interpretation of international instruments on racial discrimination, and the only way to achieve it was to exchange information continually. He agreed that one of the most important joint activities was that of developing general criteria for cooperation. The question of bringing both the treaty and non-treaty mechanisms closer together had already been raised, and the current joint meeting was a first step in that direction. A second stage might consist of establishing ongoing contacts between the Chairmen of the Sub-Commission and the Committee.

84. Mr. TREAT (Sub-Commission) said that overlapping of activities, not only between the Committee and the Sub-Commission, but also with other United Nations bodies, had often been a topic of concern. In view of that situation and of the impressive accumulation of documents, he wondered whether a data-processing system should not be set up for all the documentation. That would enable everyone to consult at any time the documents and issues referred to the bodies dealing with subjects of common interest. He hoped that the United Nations would soon consider setting up such a system.

85. Mr. JOINET (Chairman of the Sub-Commission) said that a difficult question had been referred to him: that of "affirmative" discrimination, designed to compensate for inequalities. He wondered whether the Committee had already had to deal with that problem. He did not expect an immediate reply, but would appreciate the experts' looking into the question.

86. Mr. SHAHI (Chairman of the Committee) said he was pleased that the members of the Committee and the Sub-Commission had unanimously recognized the meeting's usefulness and wished more such meetings to be held. That demonstrated the experts' will to strengthen cooperation and the exchange of information between the two bodies.

87. The list of questions of common interest was indicative and not exhaustive. It might also include, in particular, the draft declaration on

the rights of persons belonging to national, ethnic, religious and linguistic minorities and the remedies provided to victims of racial discrimination by the treaty-monitoring bodies.

88. On behalf of the Committee, he had proposed to the Sub-Commission that it should appoint a representative who would be in contact with Mr. Ferrero Costa, a member of the Committee, so that the two bodies would be regularly informed of each other's work and of the agendas for their respective sessions. For his part, he intended to continue to exchange points of view with the Chairman of the Sub-Commission, on the understanding that no decision would be taken without consulting the respective bureaux. He also mentioned that the Committee had nominated him to represent it in the Preparatory Committee for the World Conference on Human Rights, and welcomed the idea of meeting the representative of the Sub-Commission so that they might examine together which items should be included in the agenda of the Conference. The Committee had already agreed on certain items, of which the members of the Sub-Commission would be informed. The two bodies would thus have ongoing contact for the purpose of considering what type of relations might be initiated.

89. In conclusion, speaking on behalf of the Committee and in his personal capacity, he thanked the Chairman and the members of the Sub-Commission, for making possible a constructive dialogue between the two bodies.

90. Mr. JOINET (Chairman of the Sub-Commission) said that he would consult the officers of the Sub-Commission to determine how coordination between the two bodies should be structured. He had feared that a meeting between a treaty body and a statutory body might present some difficulties, but the experiment had been a success: agreement had been reached on many items, and the discussion had been a balanced one. He was pleased that the two bodies had been able to work in such good conditions for a common cause: the campaign against racism and racial discrimination.

91. Mr. SHAHI (Chairman of the Committee) thanked Mr. Martenson for his advice and encouragement in preparation for the joint meeting.

92. Mr. MARTENSON (Under-Secretary-General for Human Rights) said that the joint meeting had been very useful and assured the Sub-Commission and the Committee of his support in their efforts to organize similar meetings in the future.

93. Mr. JOINET (Chairman of the Sub-Commission) thanked Mr. Martenson for his cooperation and the secretariats of the Committee and the Sub-Commission, which had helped make the joint meeting a success.

CLOSURE OF THE JOINT MEETING

94. The CHAIRMAN declared the joint meeting of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the Committee on the Elimination of Racial Discrimination closed.

The meeting rose at 1 p.m.